

STATE OF MICHIGAN
**Department of
Health & Human
Services**

**MDSVPTB
Memo**

**Michigan Domestic &
Sexual Violence Prevention &
Treatment Board**
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TO: House Law and Justice Committee
FROM: Debi Cain, Executive Director
DATE: May 22, 2018
BILL: House Bills 5787 and 5788

The Michigan Domestic and Sexual Violence Prevention and Treatment Board (“the Board”) is a seven member Governor appointed Board charged with funding sexual assault and domestic violence services for victims and providing policy recommendations on the issues of domestic violence and sexual assault.

At its meeting on May 11, 2018, the Board voted to support House Bills 5787 and 5788. However, the Board requests a slight change in wording to House Bill 5787. As currently written, the bill makes it a crime to misrepresent to the patient that sexual contact or sexual penetration between the actor and the patient is necessary or beneficial to the patient’s health and thereby to “*induce. . . the patient to engage in sexual contact*” or sexual penetration. This language in the bill unintentionally implies a form of victim consent to, or participation in, the acts which are criminalized. The patient may in fact be subjected to unlawful contact or penetration without ever “engaging in” that contact or penetration. A patient who is falsely told that digital penetration of her vagina is a necessary medical treatment for back pain does not “engage in” that penetration. Accordingly, the Board asks that this provision be modified as follows:

A person who undertakes medical treatment of a patient and in the course of that medical treatment misrepresents to the patient that sexual contact between the person and the patient is necessary or will be beneficial to the patient’s health and who ***engages in sexual contact/penetration with the patient*** by means of the misrepresentation”

The Board thanks the bill sponsors and this committee for your continued thoughtful work on these issues. Please note that the Board’s position and rationale is solely that of the Board and does not represent the views of the Michigan Department of Health and Human Services or any other body. Although the Board is administratively housed within MDHHS, it is an independent, legislatively-created body. (See MCL 400.1502.)